

1 **Construction Amendments**
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor:

2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses construction site storm water runoff controls.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ establishes standards for how the Division of Water Quality:
- 10 • regulates controls for storm water runoff;
- 11 • imposes a fine for violation; and
- 12 • inspects construction sites impacting storm water runoff;
- 13 ▶ establishes penalties for non-compliance; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a special effective date.

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **19-5-105 (Effective 08/01/25)**, as last amended by Laws of Utah 2024, Chapter 502

22 **19-5-108.3 (Effective 08/01/25)**, as enacted by Laws of Utah 2024, Chapter 502

23 **19-5-115 (Effective 08/01/25)**, as last amended by Laws of Utah 2024, Chapter 158

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **19-5-105** is amended to read:

27 **19-5-105 (Effective 08/01/25). Rulemaking authority and procedure.**

28 (1)(a) Except as provided in Subsections (2) and (3), no rule that the board makes for
29 the purpose of the state administering a program under the federal Clean Water Act
30 or the federal Safe Drinking Water Act may be more stringent than the corresponding
31 federal regulations.

- 32 (b) In making rules, the board may ~~[incorporate by]~~ reference corresponding federal
33 regulations.
- 34 (c) Any rule of the board is subject to Section 63G-3-502.
- 35 (2)(a) The board may make rules more stringent than corresponding federal regulations
36 for the purpose described in Subsection (1), only if ~~[it]~~ the board makes a written
37 finding after public comment and hearing and based on evidence in the record that
38 the corresponding federal regulations are not adequate to protect public health and
39 the environment of the state.
- 40 (b) ~~[The-]~~ A municipal system may not make requirements for permits that are more
41 stringent than corresponding federal regulations for the purpose described in
42 Subsection (1), unless the municipal system makes a written finding after public
43 comment and hearing and based on evidence in the record that the corresponding
44 federal regulations are not adequate to protect public health and the environment of
45 the state.
- 46 (c) The board ~~[and]~~ or a municipal system that makes ~~[shall include with-]~~ a written
47 finding described in Subsection (2)(a) or (2)(b) ~~[an opinion]~~ shall include a finding
48 referring to and evaluating the public health and environmental information and
49 studies contained in the record that ~~[form]~~ forms the basis for the board's or municipal
50 system's ~~[conclusion]~~ finding described in Subsection (2)(a) or (2)(b).
- 51 (3) The board may make rules related to agriculture water more stringent than the
52 corresponding federal regulations if the commission approves.

53 Section 2. Section **19-5-108.3** is amended to read:

54 **19-5-108.3 (Effective 08/01/25). Construction site storm water runoff control.**

- 55 (1) As used in this section:
- 56 (a) "Applicant" means a person that applies for a construction storm water permit to
57 conduct or propose to conduct a use of land for a construction site.
- 58 (b) "Application" means a construction storm water permit application.
- 59 (c) "Authority" means the entity that is responsible for the oversight of the permit.
- 60 ~~[(e)]~~ (d) "Best management practice" means the methods, measures, or practices in
61 compliance with ~~[the federal Clean Water Act]~~ 40 C.F.R. Chapter 1.
- 62 ~~[(d)]~~ (e) "Construction storm water permit" means a permit required for soil disturbances
63 of an acre or more, including less than an acre if it is part of a common plan of
64 development or sale, where the disturbance is caused by construction activity.
- 65 ~~[(e)]~~ (f) "Electronic site inspection" means geo-located and time-stamped photos taken,

- 66 evaluated, and submitted electronically by the applicant to the [municipal system]
 67 authority.
- 68 (g) "Immediate threat" means contaminated water is entering a river, a stream, or a lake.
 69 (h) "Imminent threat" means contaminates are anticipated to be discharged into a river, a
 70 stream, or a lake within 48 hours.
- 71 [(f)] (i) "Municipal system" means a municipal separate storm sewer system described in [
 72 ~~the federal Clean Water Act]~~ 40 C.F.R. Chapter 1.
- 73 [(g)] (j) "Oversight inspection" means a construction site inspection performed by the [
 74 ~~municipal system]~~ authority to assess compliance with the permit.
- 75 [(h)] (k) "Permit" means a construction storm water permit.
- 76 [(i)] (l) "Prevention plan" means the storm water pollution prevention plan described in [
 77 ~~the federal Clean Water Act]~~ 40 C.F.R. Chapter 1.
- 78 [(j)] (m) "Program" means [the] a program described in Subsection [(2)] 19-5-104(3)(a).
- 79 [(k)] (n) "Violation" means a failure to implement or maintain preferred best
 80 management practices.
- 81 [(2) ~~This section does not supersede rules or regulations created by the board or division~~
 82 ~~under this chapter.]~~
- 83 [(3) ~~No permit, rule, or action by a municipal system for the purpose of administering the~~
 84 ~~program may be more stringent than the minimum requirements of the federal Clean~~
 85 ~~Water Act.]~~
- 86 [(4)] (2) [~~A municipal system]~~ An authority may not [deviate from] make or enforce a rule,
 87 an ordinance, or a policy more stringent than [the federal Clean Water Act] 40 C.F.R.
 88 Chapter 1, unless [the deviation is] expressly permitted by state statute.
- 89 [(5)] (3)(a) [~~Each municipal system]~~ The authority shall determine the [municipal
 90 system's] authority's preferred best management practices.
- 91 (b) [~~Each municipal system]~~ The authority shall publish the [municipal system's]
 92 authority's preferred best management practices on a website controlled by the [
 93 municipal system] authority.
- 94 [(6)] (4) Each [~~municipal system]~~ authority shall:
 95 (a) maintain a list of requirements that make a complete application for a permit; and
 96 (b) publish on a website controlled by the [~~municipal system]~~ authority the list described
 97 in Subsection [(6)(a)] (4)(a).
- 98 [(7)] (5) The [list] lists described in Subsection [(6)(a)] (4)(a) may not exceed the 40 C.F.R.
 99 Chapter 1 Federal Permit. [template in the federal Clean Water Act.]

- 100 ~~[(8)] (6)~~[(a) Each municipal system shall complete the review of the prevention plan
 101 within 14 business days after the day on which the applicant submits a complete
 102 prevention plan.]
- 103 ~~[(b)]~~ (a) The authority has 14 business days after the day on which the applicant submits
 104 a prevention plan to review the prevention plan for compliance with the permit,
 105 relevant local ordinances, state law, and federal law.
- 106 (b) ~~[Each municipal system]~~ The authority may request more information, or
 107 modification to the prevention plan, if the request:
- 108 (i) ~~[is specific]~~ for more information, lists specifically why the prevention plan is
 109 noncompliant; and
- 110 (ii) for modification:
- 111 (A) includes citations to the permit, local ordinances, ~~[or]~~state law, or federal law
 112 that require the modification to the prevention plan; and
- 113 ~~[(iii)]~~ (B) is logged in an index of requested modification.
- 114 (c) ~~[Each municipal system has]~~ [14] The authority has five business days after the day
 115 on which the applicant submits the information or modification described in
 116 Subsection ~~[(8)(b)]~~ (6)(b) to complete the review of the prevention plan.
- 117 ~~[(9)]~~ (7) ~~[A municipal system]~~ The authority may ~~[shall]~~ not impose a fine except as
 118 provided in Subsection (9)(c).
- 119 ~~[(10)]~~ (8) ~~[Any violation found by the]~~ Except as provided in Subsection (9)(f), ~~[municipal
 120 system]~~ an authority may not ~~[result in]~~ issue an order to stop construction activity for a
 121 violation if:
- 122 (a) an applicant selects the preferred best management practice for the site conditions;
- 123 (b) an applicant implements and properly maintains the preferred best management
 124 practices ~~[as described in Subsection (5), by the municipal system]; and~~
- 125 (c) the violation is a result from a deficiency in the preferred best management practice.
- 126 ~~[(11)]~~ (9)(a) The ~~[municipal system]~~ authority:
- 127 (i) shall notify the applicant, in writing, of a specific violation;
- 128 (ii) shall provide the applicant a reasonable time of at least ~~[24 hours]~~ one business day
 129 to correct the specific violation; and
- 130 (iii) may perform an inspection to verify that the applicant corrects the specific
 131 violation~~[is corrected]~~.
- 132 (b) If an applicant does not correct the specific violation described in Subsection [
 133 ~~(11)(a)(i)]~~ (9)(a)(i) within the deadline set under Subsection ~~[(11)(a)(ii)]~~ (9)(a)(ii), the [
 133

- 134 ~~municipal system~~ authority:
- 135 (i) shall notify the applicant, in writing, that the applicant has not corrected the
 136 specific violation~~[-has not been corrected];~~
- 137 (ii) may issue a written warning that the authority may impose a fine ~~[construction~~
 138 ~~activity may be stopped]~~ if the applicant does not correct the specific violation~~[-is~~
 139 ~~not corrected]~~ within no less than ~~[another 24-hour period]~~ an additional one
 140 business day; and
- 141 (iii) may perform an inspection to verify that the applicant corrected the specific
 142 violation~~[-is corrected].~~
- 143 (c) If an applicant does not correct the specific violation for which the applicant received
 144 notice in accordance with ~~[described in]~~ Subsection ~~[(11)(a)(i)]~~ (9)(a)(i) within the
 145 deadline set under Subsection ~~[(11)(b),]~~ (9)(b), ~~[the municipal system]~~ an authority
 146 that is a county, city, or town:
- 147 (i) shall notify the applicant, in writing, that the applicant has not corrected the
 148 specific violation~~[-has not been corrected];~~ and
- 149 (ii) may ~~[order the applicant to stop construction activity until the municipal system~~
 150 ~~performs an inspection to verify that the violation is corrected or the applicant~~
 151 ~~demonstrates that the violation is corrected through electronic site inspection.]~~
 152 impose a fine for each occurrence as follows:
- 153 (A) \$500 per occurrence for working without an approved storm water permit;
 154 (B) \$300 per occurrence for tracking mud on road;
 155 (C) \$250 per occurrence for failure to clean up or report spills;
 156 (D) \$100 per occurrence for failure to conduct storm water inspections;
 157 (E) \$100 per occurrence for failure to maintain storm water records; and
 158 (F) \$500 per site, per day, for improper use of general best management practices.
- 159 (d)(i) The authority may impose a fine for a violation that continues after the time
 160 period described in Subsection (9)(b) every business day after the initial specific
 161 violation for which the applicant received notice in accordance with Subsection
 162 (9)(a)(i).
- 163 (ii) The authority shall impose each fine in writing and clearly document the specific
 164 violation in the writing.
- 165 (iii) The authority shall deposit collected fines into a restricted account for education
 166 and outreach under an established program.
- 167 ~~[(d)]~~ (e) ~~[A municipal system]~~ The authority may not impose the process described in

- 168 this Subsection ~~[(11)]~~ (9) later than 30 days after the day on which the municipal
169 system provides the required preceding notice of violation or continuing violation.
- 170 ~~[(e)]~~ (f) ~~[A municipal system]~~ The authority may issue an order to stop construction [
171 earlier than described in Subsection (11)(e)(ii)] if the [municipal system] authority has
172 a clearly documented reason articulating an immediate threat to water quality.
- 173 ~~[(f)]~~ (g) ~~[A municipal system]~~ The authority may recoup the reasonable costs incurred to
174 correct a specific violation the applicant refuses to correct after the enforcement
175 process described in this Subsection ~~[(11)]~~ (9) has been exhausted if the [municipal
176 system] authority, at the time of clean up, determines a there is an imminent threat of
177 significant harm to water quality or the storm water system~~[-is imminent]~~.
- 178 ~~[(12)]~~ (10)(a) ~~[A municipal system]~~ The authority shall develop a checklist for a
179 pre-construction prevention plan review that is consistent with the [federal Clean
180 Water Act] 40 C.F.R. Chapter 1 Federal Permit.
- 181 (b) The applicant, or an applicant's designee, shall participate in the pre-construction site
182 inspections.
- 183 (c) ~~[A municipal system]~~ The authority may conduct a pre-construction site inspection in
184 person or using an electronic site inspection tool.
- 185 ~~[(13)]~~ (11) Each ~~[municipal system]~~ authority shall develop, publish, and implement
186 standard operating procedures, forms, or similar types of documents for construction site
187 inspections.
- 188 ~~[(14)]~~ (12)(a) ~~[A municipal system]~~ The authority shall conduct an oversight inspection
189 through an electronic site inspection.
- 190 (b) Photos submitted for electronic site inspection shall:
- 191 (i) include meta data verifying the date, time, and GPS location corresponding to the
192 construction site; and
- 193 (ii) be of sufficient resolution and clarity to assess compliance with general best
194 management practices.
- 195 (c) A contractor may opt out of the electronic site inspection and instead elect an on-site
196 inspection.
- 197 ~~[(15)]~~ (13) ~~[A municipal system]~~ The authority may conduct an on-site inspection if the [
198 municipal system] authority has a documented reason for justifying an on-site oversight
199 inspection, which may include:
- 200 (a) alterations of electronic photos;
- 201 (b) failure to submit the photos at the appropriate times; or

- 202 (c) the construction site is within one-half mile of a river, a stream, or a lake.
 203 [~~(16) Each municipal system shall:~~]
 204 [~~(a) develop and publish a procedure for the applicant to notify the municipal system that~~
 205 ~~the applicant has completed active construction and is prepared for the municipal system~~
 206 ~~to conduct verification of final stabilization; and]~~
 207 [~~(b) provide a copy of the procedure described in Subsection (16)(a) to the applicant when~~
 208 ~~the municipal system issues the permit.]~~

209 Section 3. Section **19-5-115** is amended to read:

210 **19-5-115 (Effective 08/01/25). Violations -- Penalties -- Civil actions by director**
 211 **-- Ordinances and rules of political subdivisions -- Acts of individuals.**

212 (1) As used in this section:

- 213 (a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.
 214 (b) "Knowingly" means the same as that term is defined in Section 76-2-103.
 215 (c)(i) "Organization" means a legal entity, other than a government, established or
 216 organized for any purpose[;] . [~~and]~~
 217 (ii) "Organization" includes a corporation, company, association, firm, partnership,
 218 joint stock company, foundation, institution, trust, society, union, or any other
 219 association of persons.
 220 (d) "Serious bodily injury" means bodily injury that involves a substantial risk of death,
 221 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
 222 protracted loss or impairment of the function of a bodily member, organ, or mental
 223 faculty.
 224 (e) "Willfully" means the same as that term is defined in Section 76-2-103.

225 (2)(a) A person who violates this chapter, or any permit, rule, or order adopted under
 226 this chapter, upon a showing that the violation occurred, is subject in a civil
 227 proceeding to a civil penalty not to exceed \$10,000 per day of violation.

228 (b) In addition to the civil penalty under Subsection (2)(a), the division may impose a
 229 fine for each violation in accordance with Subsection 19-5-108.3(9)(c).

230 (c) The division may issue an order to stop construction in accordance with Subsection
 231 19-5-108.3(9)(f).

232 (3)(a) A person is guilty of a class A misdemeanor and is subject to imprisonment under
 233 Section 76-3-204 and a fine not exceeding \$25,000 per day who, with criminal
 234 negligence:

235 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any

- 236 condition or limitation included in a permit issued under Subsection 19-5-107(3);
- 237 (ii) violates Section 19-5-113;
- 238 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned
- 239 treatment works; or
- 240 (iv) manages sewage sludge in violation of this chapter or rules adopted under this
- 241 chapter.
- 242 (b) A person is guilty of a third degree felony and is subject to imprisonment under
- 243 Section 76-3-203 and a fine not to exceed \$50,000 per day of violation who
- 244 knowingly:
- 245 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any
- 246 condition or limitation included in a permit issued under Subsection 19-5-107(3);
- 247 (ii) violates Section 19-5-113;
- 248 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned
- 249 treatment works; or
- 250 (iv) manages sewage sludge in violation of this chapter or rules adopted under this
- 251 chapter.
- 252 (4) A person is guilty of a third degree felony and subject to imprisonment under Section
- 253 76-3-203 and shall be punished by a fine not exceeding \$10,000 per day of violation if
- 254 that person knowingly:
- 255 (a) makes a false material statement, representation, or certification in any application,
- 256 record, report, plan, or other document filed or required to be maintained under this
- 257 chapter, or by any permit, rule, or order issued under this chapter; or
- 258 (b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or
- 259 method required to be maintained under this chapter.
- 260 (5)(a) A person is guilty of a second degree felony and, upon conviction, is subject to
- 261 imprisonment under Section 76-3-203 and a fine of not more than \$250,000 if that
- 262 person:
- 263 (i) knowingly violates this chapter, or any permit, rule, or order adopted under this
- 264 chapter; and
- 265 (ii) knows at that time that the person is placing another person in imminent danger
- 266 of death or serious bodily injury.
- 267 (b) If a person is an organization, the organization shall, upon conviction of violating
- 268 Subsection (5)(a), be subject to a fine of not more than \$1,000,000.
- 269 (c)(i) A defendant who is an individual is considered to have acted knowingly if:

- 270 (A) the defendant's conduct placed another person in imminent danger of death or
271 serious bodily injury; and
- 272 (B) the defendant was aware of or believed that there was an imminent danger of
273 death or serious bodily injury to another person.
- 274 (ii) Knowledge possessed by a person other than the defendant may not be attributed
275 to the defendant.
- 276 (iii) Circumstantial evidence may be used to prove that the defendant possessed
277 actual knowledge, including evidence that the defendant took affirmative steps to
278 be shielded from receiving relevant information.
- 279 (d)(i) It is an affirmative defense to prosecution under this Subsection (5) that the
280 conduct charged was consented to by the person endangered and that the danger
281 and conduct charged were reasonably foreseeable hazards of:
- 282 (A) an occupation, a business, or a profession; or
283 (B) medical treatment or medical or scientific experimentation conducted by
284 professionally approved methods and the other person was aware of the risks
285 involved before giving consent.
- 286 (ii) The defendant has the burden of proof to establish an affirmative defense under
287 this Subsection (5)(d) and shall prove that defense by a preponderance of the
288 evidence.
- 289 (6) For purposes of Subsections (3) through (5), a single operational upset that leads to
290 simultaneous violations of more than one pollutant parameter shall be treated as a single
291 violation.
- 292 (7)(a) The director may bring a civil action for appropriate relief, including a permanent
293 or temporary injunction, for any violation or threatened violation for which the
294 director is authorized to issue a compliance order under Section 19-5-111.
- 295 (b) Notwithstanding Title 78A, Chapter 3a, Venue for Civil Actions, the director shall
296 bring a civil action in the district court where the violation or threatened violation
297 occurs if the director brings the action in a district court.
- 298 (8)(a) The attorney general is the legal advisor for the board and the director and shall
299 defend the board or director in an action or proceeding brought against the board or
300 director.
- 301 (b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or
302 17-18a-203, in the county in which a cause of action arises, shall bring an action,
303 civil or criminal, requested by the director, to abate a condition that exists in violation

304 of, or to prosecute for the violation of, or to enforce, the laws or the standards, orders,
305 and rules of the board or the director issued under this chapter.

306 (c) The director may initiate an action under this section and be represented by the
307 attorney general.

308 (9) If a person fails to comply with a cease and desist order that is not subject to a stay
309 pending administrative or judicial review, the director may initiate an action for and be
310 entitled to injunctive relief to prevent any further or continued violation of the order.

311 (10) A political subdivision of the state may enact and enforce ordinances or rules for the
312 implementation of this chapter that are not inconsistent with this chapter.

313 (11)(a) Except as provided in Subsection (11)(b), the department shall deposit penalties
314 assessed and collected under the authority of this section [~~shall be deposited~~] into the
315 General Fund.

316 (b) The department may reimburse itself and local governments from money collected
317 from civil penalties for extraordinary expenses incurred in environmental
318 enforcement activities.

319 (c) The department shall regulate reimbursements by making rules, in accordance with
320 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

321 (i) define qualifying environmental enforcement activities; and

322 (ii) define qualifying extraordinary expenses.

323 (12)(a) For purposes of this section or an ordinance or rule enacted by a political
324 subdivision under Subsection (10), an act performed by an individual wholly within
325 the scope of the individual's employment with an organization, is attributed to the
326 organization.

327 (b) Notwithstanding the other provisions of this section, an action may not be brought
328 against an individual acting wholly within the scope of the individual's employment
329 with an organization if the action is brought under:

330 (i) this section;

331 (ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

332 (iii) any local law or ordinance governing discharge.

333 **Section 1. Effective Date.**

334 This bill takes effect on August 1, 2025.